

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

SABA HASHEM, individually, and as a  
member of, and derivatively on behalf of,  
D'Angelo and Hashem, LLC,

Plaintiff,

v.

STEPHEN D'ANGELO, D'ANGELO  
LAW GROUP, LLC, and D'ANGELO  
AND HASHEM, LLC.

Defendants.

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Civil Action No. 16-cv-12383-IT

ORDER

July 28, 2017

TALWANI, D.J.

Before the court is Defendants' Motion to Dismiss Plaintiff's Amended Complaint (Doc. No. 13) Pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(1) [#21]. Plaintiff concedes that, pursuant to Rule 5.4(d)(1) of the Massachusetts Rules of Professional Conduct and Rule 3.06(2) of the Massachusetts Supreme Judicial Court Rules, he "cannot maintain an ownership interest in" D'Angelo and Hashem, LLC. Pl.'s Opp. 6 [#25]. He states further that he was unaware of these provisions until the instant motion to dismiss, and that he is prepared to tender his interest in the firm and to amend the complaint to clarify the claims he seeks to pursue. Id. at 6, 10 n.5.

Despite the requirements of Local Rule 7.1, Defendants filed their Motion to Dismiss without certification that counsel "have conferred and have attempted in good faith to resolve or narrow the issue." Had such a conference and good-faith attempt to resolve or narrow the issues occurred prior to filing the motion, the court could have been presented with the actual dispute

between the parties. A just resolution of this matter counsels in favor of the court's deferring consideration of the dispute until it is so presented.

Accordingly, the motion to dismiss is DENIED for failure to comply with Local Rule 7.1. Plaintiff may file a second amended complaint no later than August 11, 2017. Defendants may bring a further motion to dismiss if appropriate, but only after conferring in good faith as required by Local Rule 7.1. Any further motion to dismiss shall be filed no later than August 25, 2017.

IT IS SO ORDERED.

Date: July 28, 2017

/s/ Indira Talwani  
United States District Judge